ssm

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1220 OF 2006**

**IN**

**FIRST APPEAL NO. 1715 OF 2005**

Mrs. Feroz Lalchand aghela ...Applicant.

Vs.

Union of India and Ors. ...Respondents.

Mr. S.V.Sadavarte for the applicant.

Mr. S.D.Bhosale for the respondents.

**CORAM : ANOOP V. MOHTA,J.**

**DATED : 21st August, 2007**

**P.C.**

1. Considering the averments made, undisputed position on record is that the suit is decreed against the Union of India as because of incident, the respondent's son died. The death is not in dispute. Prima-facie observation concerning of defendant Nos. 1 to 4 are sufficient to grant the prayer as made by respondent No.1, who is mother of the deceased. The acquital or conviction of the concerned officials though relevant but cannot be the foundation to overlook the finding arrived at by the trial court so decreed against the appellant.

2. Taking all this into account, I am of the view

that respondent No.1 is entitled for withdrawal of 50% of the decretal amount i.e. Rs.1,50,000/-. However, out of that respondent No.1 permitted to withdraw Rs.75,000/- without security. For remaining Rs.75,000/- respondent No.1 shall furnish security to the satisfaction of the Trial Court.

2. The Civil Application is accordingly disposed of.

**(ANOOP V. MOHTA, J.)**